

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL KINCADE,

Plaintiff

v.

JAMES DZURENDA, et al.,

Defendants

Case No. 2:19-cv-02171-KJD-NJK

ORDER

I. DISCUSSION

Plaintiff, who is an inmate in the custody of the Nevada Department of Corrections (“NDOC”), has filed a civil rights complaint, as well three motions requesting that the Court make amendments to the complaint. Docket Nos. 1-1, 4, 5, 7. The Court will not piecemeal Plaintiff’s complaint together from multiple filings. Plaintiff’s operative complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. As such, the Court grants Plaintiff leave to file a fully complete first amended complaint, no later than January 19, 2021. If Plaintiff does not file a fully complete amended complaint, the Court will only screen his initial complaint, Docket No. 1-1, and will not consider any allegations in Plaintiff’s additional filings.

If Plaintiff chooses to file a first amended complaint, he is advised that a first amended complaint supersedes (replaces) the original complaint, and, thus, the first amended complaint must be complete in itself. *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading supersedes the original”); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims in a subsequent amended complaint to preserve them for appeal). Plaintiff’s first amended complaint must contain all claims, defendants, and factual

1 allegations that Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must file the first
2 amended complaint on this Court's approved prisoner civil rights form, and it must be entitled
3 "First Amended Complaint."

4 **II. CONCLUSION**

5 For the foregoing reasons,

6 **IT IS ORDERED** that, Plaintiff's motions for leave to file incomplete amended
7 complaints are **DENIED**. Docket Nos. 4,5.

8 **IT IS FURTHER ORDERED** that Plaintiff is granted leave to file a single complete first
9 amended complaint. If Plaintiff chooses to file a first amended complaint, Plaintiff must file the
10 first amended complaint no later than January 19, 2021.

11 **IT IS FURTHER ORDERED** that the Clerk of the Court will send to Plaintiff the
12 approved form for filing a § 1983 complaint, instructions for the same, and a copy of his initial
13 complaint, as well as the motions for leave to amend his complaint (Docket Nos. 1-1, 4, 5, 7). If
14 Plaintiff chooses to file a first amended complaint, he must use the approved form and he will
15 write the words "First Amended" above the words "Civil Rights Complaint" in the caption.

16 **IT IS FURTHER ORDERED** that, if Plaintiff does not timely file a first amended
17 complaint, the Court will screen the original complaint, Docket No. 1-1, only and will not consider
18 any allegations in Plaintiff's motions for leave to amend the complaint.

19 DATED: December 18, 2020.

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23 NANCY J. KOPPE
24 UNITED STATES MAGISTRATE JUDGE
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